

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF PASADENA
TEXAS POLLUTANT DISCHARGE
ELIMINATION SYSTEM ("TPDES")
PERMIT NO. 10053-005

§
§
§
§
§
§
§

BEFORE THE

TEXAS NATURAL RESOURCE

CONSERVATION COMMISSION

AGREED ORDER DOCKET NO. 2002-0701-MWD-E

I. JURISDICTION AND STIPULATIONS

At its **MAR 19 2003** agenda, the Texas Natural Resource Conservation Commission ("the Commission" or "TNRCC") considered this agreement of the parties, resolving an enforcement action regarding the City of Pasadena ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TNRCC, through the Enforcement Division, and the City, appear before the Commission and together stipulate that:

1. The City owns and operates a 7.0 million gallons per day wastewater treatment plant located on the East and West banks of Vince Bayou; west of McDonald Street and north of West Richey Access Road in Pasadena, Harris County, Texas (the "Facility").
2. The City has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about May 25, 2002.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Five Thousand Dollars (\$5,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid the Five Thousand Dollar (\$5,000) administrative penalty.
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.



9439749

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Natural Resource Conservation Commission
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NUMBER: 2002-0701-MWD-E TCEQ ID: Texas Pollutant Discharge Elimination System Permit No. 10053-005 ENF ID: 8881/2
CASE NAME: City of Pasadena

ORDER TYPE:

<input checked="" type="checkbox"/> X1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING	<input type="checkbox"/> AMENDED ORDER
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER	<input type="checkbox"/> EMERGENCY ORDER

CASE TYPE:

<input type="checkbox"/> AGRICULTURE	<input type="checkbox"/> AIR	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE	<input type="checkbox"/> MUNICIPAL SOLID WASTE
<input type="checkbox"/> OCCUPATIONAL CERTIFICATION	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> RADIOACTIVE WASTE
<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL	<input checked="" type="checkbox"/> WATER QUALITY

RESPONDENT: City of Pasadena

FACILITY LOCATION: Vince Bayou wastewater treatment plant, located on the east and west banks of Vince Bayou; west of McDonald Street and north of West Richey Access Road, Pasadena, Harris County

DESCRIPTION OF OPERATION: Wastewater treatment plant

PREVIOUS ENFORCEMENT ORDERS: There is no record of previous Orders for this facility location.

OTHER SIGNIFICANT MATTERS: The Respondent was issued NOVs on October 27, 1999 and October 23, 2001, which were utilized in determining culpability for penalty calculation purposes. There are no complaints. There are no EPA or AG actions for similar violations at this facility. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the TCEQ and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The comment period expired December 9, 2002. No comments were received by the Enforcement Division or the TCEQ Houston Regional Office as of December 9, 2002.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Sheila Smith, Enforcement Division, Enforcement Section II, MC 134, (512) 239-1670, Mr. Terry Murphy, Enforcement Division, Enforcement Section III, MC 149, (512) 239-5025

TCEQ Regional Contact: Ms. Donna Phillips, Manager, Water Section, Houston Regional Office, MC R-12, (713) 767-3500

Central Office Investigator: Mr. Stu Beckley, Enforcement Division, Enforcement Section III, MC 224, (512) 239-3565

Respondent: Ms. Sarah Metzger, Engineering Coordinator, City of Pasadena, P.O. Box 672, Pasadena, Texas 77501

Respondent's Attorney: Not represented by Counsel

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
FEB 24 PM 1:50
OFFICE

**TNRCC****Penalty Calculation Worksheet**

Plcy. rev. 1 (01/99)

PCW rev. 12/06/2001

Go to Vol 1

Case Information

Screening Date	6-May-2002	Case Priority Due Date	5-Jul-2002
PCW Date	4-Jun-2002	EPA SNC/SV Due Date	5-Mar-2002
Respondent	City of Pasadena		
ID Number(s)	TPDES Permit No. 10053-005; ENF ID 8881		
Docket Number	2002-0701-MWD-E	Facility/Site Region	12
Enf. Coordinator	Sheila Smith	EC's Unit or Region	Team 5
Type of Order	1660 w/o deferral	No. of Violations in PCW	1
Case Priority	6	Enter x for Major Source (as defined in PP)	x

Media-Program

x	Program Name(s)	Min	Max
x	Water Quality	\$0	\$10,000
	Water Rights	\$0	\$5,000
		\$0	\$2,500
	Public Water Supply	\$50	\$1,000
	Levees	\$0	\$1,000
	Public Water Utilities	\$0	\$500

Adjustments to Subtotal 1

Total Base Penalty forward (subtotal 1) \$5,000

Culpability (enhancement)

Does the respondent meet Yes ☒ x

any of the culpability criteria? No ☐

Notes

NOVs for same or similar violations were issued for this facility on 10/27/99 and 10/23/01.

Adjustment amount (subtotal 2) \$1,250

Economic Benefit (enhancement)

Total of EB Amounts \$58

EB Enhancement (percent) 0%

Adjustment amount (subtotal 5) \$0

Approx. Cost of Compliance \$2,000

Good Faith Effort to Comply (reduction)**Timing of Action**

Quality of Action	Before NOV	NOV to EDRP or Order	Percent
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input checked="" type="checkbox"/> x	<input type="checkbox"/>	25%
None of the above	<input type="checkbox"/>	<input type="checkbox"/>	(mark only one, use small x)

Notes

The Respondent has complied with its permitted limits since 7/1/01.

Adjustment amount (subtotal 3) (\$1,250)

Compliance History (enhancement)

Enter Percent 0 (enter number only; e.g., 30 for 30%)

Notes

There is no record of previous findings orders, judicial actions or criminal convictions.

Adjustment amount (subtotal 4) \$0

Final Subtotal \$5,000**Other Factors as justice may require**

Enter Adjustment Percentage (+/-) % (enter number only; e.g., -30 for -30%)

Notes

Amount \$0

(if more space is needed, increase row height)

Final Penalty Amount \$5,000**Final Assessed Penalty (including any statutory limit adj.)** \$5,000**Payable Penalty**

Enter Deferral Percentage % (enter number only; e.g., 20 for 20%)

Notes

No deferral is recommended because previous NOVs for same or similar violations were issued for this facility on 10/27/99 and 10/23/01.

Deferral \$0

Payable Penalty \$5,000

Screening Date

May-02

Docket Number 2002-0701-MWD

PCW

Respondent City of Pasadena

Plcy. rev. 1 (01/99)

ID Number(s) TPDES Permit No. 10053-005; ENF ID 8881

PCW rev. 12/06/2001

Media [Statute] Water Quality

Enf. Coordinator Shella Smith

Violation Number

1

Primary Rule Cite

TPDES Permit No. 10053-005-Effluent Limitation and Monitoring; Tex. Water Code § 26.121(c)

Secondary Cite(s)

30 Tex. Admin. Code § 305.125(1)

Violation Description

The facility failed to comply with the permit limit of 40 milligrams per liter (mg/L) for Total Suspended Solids (TSS) during 2/01 (62.0 mg/L) and 6/01 (73.0 mg/L).

Base Penalty

\$10,000

» Environmental, Property and Human Health Matrix

OR	Release	Harm		
		Major	Moderate	Minor
	Actual			x
	Potential			

Percent 25%

» Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor

Percent

Human health or the environment was exposed to insignificant amounts of pollutants which did not exceed health-based levels.

Adjustment

(\$7,500)

Base Penalty Subtotal

\$2,500

Violation Events

Number of Violation Events

2

mark only one; use small x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty

\$5,000

Events Notes

Two quarterly events are recommended for the violations documented during 2/01 and 6/01.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$)

\$58

Violation Final Penalty total

\$5,000

This Violation Final Assessed Penalty (adjusted for limits)

\$5,000

Economic Benefit Worksheet

Respondent City of Pasadena
 ID Number(s) TPDES Permit No. 10053-005; ENF ID 8881
 Media [Statute] Water Quality
 Violation Number 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	------------------------------	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs

Equipment	\$2,000	1-Feb-2001	1-Jul-2001	0.4	\$3	\$55	\$58
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost of maintaining equipment in proper working condition.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance \$2,000

TOTAL \$58

CAPTION: Docket No. 2002-0701-MWD-E. Consideration of an Agreed Order assessing administrative penalties against the City of Pasadena in Harris County; Texas Pollutant Discharge Elimination System Permit No. 10053-005; for water quality violations pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality. (Sheila Smith, Terry Murphy)

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

203 FEB 24 PM 1:52

CHIEF CLERKS OFFICE